

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

**ELIZABETH DEVILLIER AND
VERNON DEVILLIER
Plaintiffs**

VERSUS

**MARY MELTA BRINEGAR, JAMES SMITH, AND
LOUISIANA-PACIFIC CORP.
Defendants**

*** CIVIL ACTION NO.:**

JUDGE

MAGISTRATE

COMPLAINT

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Elizabeth Devillier and Vernon Devillier, persons of the full age of majority and citizens of Louisiana domiciled in Belle Chasse, Louisiana, who respectfully represent that:

I.

Made Defendants herein are:

(1) Mary Melta Brinegar, a person of the full age of majority and citizen of the State of Texas, whose last known address is 3131 Maple Avenue, Apt. 12H, Dallas, TX, 75201;

(2) James Smith, a person of full age of majority and citizen of the State of Texas; and

(3) Louisiana-Pacific Corporation, a corporation incorporated in the State of Delaware with its principal place of business in the State of Tennessee, who has appointed US Corp Co, 211 E. 7th Street, Suite 620, Austin, TX 78701-3218 as its registered agent for service of process.

II.

This action is a civil action of which this Honorable Court has original jurisdiction under 28 U.S.C. §§ 1332 in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

III.

Venue is proper is proper in accordance with 28 U.S.C. §§ 1391(b)(2) as “a substantial part of the events or omissions giving rise to the claim occurred” within the judicial district of this Honorable Court.

IV.

Defendants are liable, jointly, severally, and in solido for the damages claimed by Plaintiffs herein, together with legal interest from date of judicial demand, plus all costs of these proceedings, for the following reasons to-wit:

V.

Plaintiffs bring this suit to recover for personal injuries and property damage sustained by Plaintiffs as a result of an automobile accident, which said accident was caused by the sole negligence of Defendants herein.

VI.

On November 15, 2016, Plaintiffs were travelling south on I-35E in Dallas, Texas near the I-30 interchange in their 2016 Chevrolet Silverado; at all times pertinent herein, said vehicle was owned by Plaintiffs.

VII.

At or about the same time and place, Defendant, James Smith, an employee of Louisiana-Pacific Corporation, was traveling south on I-35E in an 18-wheeler truck in the lane adjacent to the passenger side of the Devilliers' vehicle, at all times pertinent herein the 18-wheeler was owned by Louisiana-Pacific Corporation.

VIII.

At or about the same time and place, Defendant, Mary Melta Brinegar, was operating a 2013 Lexus ES 350 (VIN # JTHBK1GGXD2082758), at all times pertinent herein said vehicle was owned by Mary Melta Brinegar.

IX.

Without warning or notice, Defendant Mary Meltar Brinegar negligently and abruptly moved her vehicle in front of the 18-wheeler operated by James Smith causing James Smith to negligently steer the 18-wheeler into the Devilliers' lane and strike the Devilliers' vehicle.

X.

As a result of the negligent and tortious actions of the Defendants, the 18-wheeler and the Devilliers' vehicle collided, causing severe and permanent injuries to Elizabeth Devillier, in addition to resulting in substantial property damage to the vehicle owned by Plaintiffs.

XI.

The sole and proximate cause of the damages in this accident was due to the negligent and tortious actions of the Defendants, in the following, non-exclusive particulars:

A. Mary Melta Brinegar

1. Failure to keep a proper lookout, being inattentive;
2. Failure to yield the right of way;

3. Failure to maneuver the vehicle in order to avoid the accident made basis of this suit;
4. Driving at an excessive rate of speed;
5. Failure to timely apply brakes;
6. Failure to maintain an assured, clear distance between vehicles;
7. Failure to see what should have been seen;
8. Operating a vehicle in a careless and reckless manner;
9. Failure to maintain proper control of the vehicle;
10. Failure to act as a reasonably prudent person; and
11. Other acts of negligence which will be proven at trial.

B. James Smith

1. Failure to keep a proper lookout, being inattentive;
2. Failure to maneuver the vehicle in order to avoid the accident made basis of this suit;
3. Following the vehicle ahead too closely;
4. Driving at an excessive rate of speed;
5. Failure to timely apply brakes;
6. Failure to remain in lane of travel;
7. Following the vehicle ahead too closely;
8. Failure to maintain an assured, clear distance between vehicles;
9. Failure to use vehicle's equipment, namely the brakes;
10. Failure to see what should have been seen;
11. Operating a vehicle in a careless and reckless manner;
12. Failure to maintain proper control of the vehicle;

13. Failure to act as a reasonably prudent person; and

14. Other acts of negligence which will be proven at trial.

All of the foregoing negligent and tortious actions of the Defendants were in violation of the laws of the State of Texas, and the ordinances of the County of Dallas, which are hereby specifically pleaded and which are adopted by this reference as if set forth at this point in extenso.

XII.

On the date of the incident which caused Plaintiffs' damages, Defendant James Smith was acting in the course and scope of his employment of Defendant Louisiana-Pacific Corporation. Pursuant to the doctrine of respondeat superior, Defendant Louisiana-Pacific Corporation is liable for the negligent and tortious acts of its employee, Defendant James Smith.

XIII.

As a result of the negligent and tortious actions of the Defendants, Elizabeth Devillier, sustained personal injuries to her person, including but not limited to her back, which damages are enumerated as follows:

1. Past, present and future physical pain and suffering;
2. Past, present and future mental anguish and suffering;
3. Past, present and future medical expenses;
4. Past, present and future disability, loss of bodily function, physical impairment;
5. Psychological distress;
6. Loss of enjoyment of life;
7. Exemplary/punitive damages;
8. Inconvenience; and
9. Ambulance.

XIV.

As a result of the negligent and tortious actions of the Defendants, Plaintiffs sustained damages to personal property, including but not limited to the following:

1. Automobile - depreciated value; and
2. Transport Expenses.

XV.

As a result of the negligent and tortious actions of the Defendants, Vernon Devillier, the spouse of Elizabeth Devillier, seeks and is entitled to recover for the following:

1. Loss of care, companionship, consortium, help/aid/services of spouse;

XVI.

Plaintiffs request trial by jury.

WHEREFORE, Plaintiffs, Elizabeth Devillier and Vernon Devillier, pray that after due proceedings had, there be judgment rendered in favor of Plaintiffs and against Defendants, Mary Melta Brinegar, James Smith, and Louisiana-Pacific Corporation, jointly, severally and in solido for damages which are reasonable in the premises, together with all costs of these proceedings and all other general and equitable relief which is appropriate.

RESPECTFULLY SUBMITTED:

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